

REMARKS

The Office Action has been carefully considered.

In connection with the examiner's rejection of claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over Kusaba et al. in view of Diwan and claims 5-6 under 35 U.S.C. 103(a) as being unpatentable over Kusaba et al. in view of Wright et al. the original claims 1-6 have been canceled and replaced by new claims 7 and 8. The new claims have been drafted with careful consideration of the Examiner's grounds for the rejection. It is believed that the grounds for this rejection are eliminated because of the following:

As to claim 7, Kusaba fails to disclose the following features:

- (1) a broadcast server receiving requests for Internet objects from Internet clients;
- (2) maintaining a server selection list of Internet objects and providing for each object of the selection list a number of clients requested that object;
- (3) downloading the requested objects from web servers located anywhere in the world;
- (4) retaining Internet objects requested by more than one client and repeatedly transmitting the objects with time intervals small enough so not to be considered as delays in content delivery;
- (5) continuing the transmission during a period of time determined for each object proportionally to the number of clients requested the object in order that other clients whose users will request the object during that period of time could download the object without sending a request to the broadcast server, thereby further reducing Internet traffic and reducing delays in content delivery.

Comments:

Feature 1. In Kusaba, clients do not request Internet objects i.e., objects posted on web sites anywhere in the world. Their choice is limited to video files available in Storage 102 and listed in Title Table 103.

Feature 2. Server 111 does not provide for each object of the selection list (Schedule Table 104) a number of clients requested that object.

Feature 3. While server 111 is connected to the Internet to receive requests for video files from clients and optionally transmit video files to clients over a DSL connection, the server does not download files from web servers located anywhere in the world into the storage 102 (See col. 9, lines 2-11 and Fig. 5).

Feature 4. Server 111 does not repeatedly transmit files with time intervals small enough so not to be considered as delays in content delivery. In fact, it would be impractical if not impossible for Server 111 to do so considering the size of video files. Meanwhile this feature is crucial for efficiency of the inventive system.

Feature 5. Server 111 does not continue the transmission during a period of time determined for each object proportionally to the number of clients requested the object. While the examiner states the opposite (page 5 lines 1 and 2) with reference to Kusaba col.6 lines 10-29, it is respectfully submitted that Kusaba does not disclose this feature at the indicated location as well as at any other location in the specification.

However, it is known that in order to arrive at a claimed invention by modifying the references the cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they are clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its

structure to one which prior art references do not suggest.

In order to arrive at the applicants' invention from the patent to Kusaba the system disclosed in the patent has to be fundamentally modified in its purpose and operations. Definitely, the patent to Kusaba does not disclose any suggestion for such modifications.

The patent to Wright et al. fails to disclose features (1), (2), (4) and (5) of claim 7. In Wright, clients do not submit requests for Internet objects, their choice is limited to a set of Internet objects selected by a webcast center administrator (see Abstract, col. 4 lines 46-50 and col. 5 lines 36-40). It is not a conventional **interactive** Internet access system or a **pseudo-interactive** system claimed in this application, which both provide users with Internet content of their choice at the time of their choice.

The patent to Diwan fails to disclose features (2), (4) and (5) of claim 7. The patent mentions "multicast" - a technology for reducing Internet traffic. The fundamental difference between multicast and the inventive system is explained in the Application (see page 3 lines 16-21).

It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38) as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

The claimed system puts together interactivity of the Internet and congestion-free content delivery inherent in broadcast media, such as radio and television, in order that

Internet users could receive content of their choice at the time of their choice without annoying delays. In addition, the system reduces interaction between client computers and Internet access server thereby decreasing the cost of service. There is no suggestion in patents to Kusaba et al., Diwan and Wright et al. that these advantageous results could be accomplished by modifying the prior art devices.

It is therefore respectfully submitted that claim 7 should be considered as patentably distinguishing over the art and should be allowed.

As to claim 8, Kusaba fails to disclose the following features:

- (1) a broadcast server receiving requests for Internet objects from Internet clients;
- (2) maintaining a server selection list of Internet objects and providing for each object of the selection list a number of clients requested that object;
- (3) scheduling objects of the server selection list for broadcast transmission so to transmit objects requested by more than one client repeatedly during a period of time determined for each object proportionally to the number of clients requested the object;
- (4) downloading each Internet object included in the broadcast schedule from its origin web server before the time of scheduled broadcast transmission of that object.

Comments:

Feature 1. In Kusaba, clients do not request Internet objects i.e., objects posted on web sites anywhere in the world. Their choice is limited to video files available in Storage 102 and listed in Title Table 103.

Feature 2. Server 111 does not provide for each object of the server selection list (Schedule Table 104) a number of clients requested that object.

Feature 3. Server 111 does not schedules objects of the server selection list for broadcast transmission so to transmit the objects repeatedly during a period of time determined for each object proportionally to the number of clients requested the object.

Feature 4. Server 111 does not download Internet objects from its origin web servers.

Therefore in order to arrive at claim 8 from the patent to Kusaba the system disclosed in the patent has to be fundamentally modified in its purpose and operations. Definitely, the patent to Kusaba does not disclose any suggestion for such modifications.

The patent to Wright et al. fails to disclose features (1), (2) and (3) of claim 8. In Wright, clients do not submit requests for Internet objects, their choice is limited to a set of Internet objects selected by a webcast center administrator (see above argument in respect to claim 7). The patent to Diwan fails to disclose features (2) and (3) of claim 8.

There is also no suggestion in the prior art that the advantageous results of the inventive system - providing users with content of their choice at the time of their choice without annoying delays in content presentation and reducing interaction between client computers and Internet access server thereby decreasing the cost of service - could be accomplished by modifying the prior art devices.

It is therefore respectfully submitted that claim 8 should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Respectfully submitted,



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